

**CHARGE EVALUATION REPORT
LAPD OFFICER JOHN HATFIELD
Report 04-0620R**



JUSTICE SYSTEM INTEGRITY DIVISION

**STEVE COOLEY
District Attorney**

February 3, 2005

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of allegations that Los Angeles Police Officer John Hatfield unlawfully assaulted Stanley Miller under the color of authority in violation of Penal Code Section 149. For the reasons set forth below, we decline to initiate criminal proceedings against Officer Hatfield.

The following analysis is based upon reports submitted by the Los Angeles Police Department's Internal Affairs Criminal Investigation Section and video footage of the incident acquired from ABC and FOX News.

FACTUAL SUMMARY

On June 23, 2004, at 4:15 a.m., Daisy Barrajas' Toyota Camry was stolen from the street in front of her residence in the City of Compton. Ms. Barrajas reported the theft to the Los Angeles County Sheriff's Department. Her vehicle information was entered into the Stolen Vehicle System, a law enforcement database.

At approximately 5:15 a.m., Los Angeles Police Department (LAPD) Officers John Hatfield and Michael O'Connor were partners working in the Southeast Division of the City of Los Angeles. The officers noticed a Toyota Camry fail to stop at a stop sign. Officer O'Connor entered the Camry's license plate number for wants and warrants on their vehicle's Mobile Digital Terminal (MDT). The MDT revealed that the car had been reported stolen earlier that morning. The sole occupant of the car, later identified as Stanley Miller, increased his speed and quickly entered the 110 freeway. Officer O'Connor notified communications that his unit was in pursuit of the stolen Camry.

Miller engaged Officers Hatfield and O'Connor in a high-speed pursuit through the cities of Los Angeles, Gardena and Compton. Miller reached speeds of up to 100 miles per hour and ran multiple red lights. Numerous cars were forced to take evasive action to avoid life-threatening collisions.

At approximately 5:23 a.m., Officer O'Connor broadcast, "Advise units that the suspect is reaching for something under the seat." This statement was rebroadcast by communications and LAPD's Air 18 helicopter which was en route. Additional LAPD officers joined the pursuit.

In the City of Compton, Miller began driving in a circular pattern. By this time both an ABC and FOX news helicopter were videotaping the pursuit.

At approximately 5:38 a.m., Miller drove the Camry to the end of Caldwell Street, opened the driver's side door and fled eastbound on foot along a dirt access road adjacent to Compton Creek. The vehicle pursuit had traversed approximately 21 miles.

Several officers began pursuing Miller. Officer Hatfield was initially the first officer behind Miller but was passed by Officers Watson and Hale. Air 18 officers identified

themselves as LAPD and ordered Miller to stop and put up his hands. Video footage shows that as Miller ran his left arm remained closer to his left side while his right arm pumped back and forth with a greater range of motion. Miller ran approximately 200 yards before he slowed down and looked back at the pursuing officers. Miller then stopped, faced the wash and raised both hands into the air. His right hand was open and his left hand was closed into a fist.

Although the vehicle pursuit had started in darkness, when Miller sprinted from the Camry the sky was beginning to lighten. Both Officers Hatfield and Moody chased Miller on foot holding their flashlights.

Officer Watson was the first to reach Miller's location. He briefly withdrew his service weapon and pointed it at Miller. Miller bent his knees as if to kneel and bent over at his waist with his hands in front of him. Officer Watson then re-holstered his weapon and ran toward Miller and tackled him. It appears from the video footage that Miller initially landed with both hands in front of him at approximately shoulder level. Miller's left arm and hand were initially visible and free. Officer Watson very quickly grabbed Miller's left arm and pulled it backward. Miller's right arm was clearly extended above his head.

Officer Hale ran up to Miller with Officer Hatfield a few steps behind him. Officer Hale went to the ground. Officer Hale's right hand went on top of Miller's right hand which was still extended above Miller's head.

Officer Hatfield ran up and kicked the back of Miller's head. Officer Hatfield then dropped to his knees and switched the flashlight he was carrying to his right hand. Using the flashlight, Officer Hatfield struck Miller's left side eleven times. Approximately 8 seconds elapsed between Officer Hatfield's first and last striking motion. As Officer Hatfield struck at Miller with the flashlight, additional officers arrived. From video footage, it appeared Officer Hatfield was between Miller's right arm and Officer Hale preventing Miller from placing his arm behind his back. Officer Hatfield then brought his right knee back and appeared to strike Miller with his knee five times in Miller's left shoulder area. Officer Bueno walked up to Officer Hatfield and briefly spoke with him. Officer Hatfield then stood up and walked away from Miller while the remaining officers attempted to handcuff him. Approximately 30 seconds elapsed from the time Officer Hatfield first struck Miller until he stood up and walked away.

Officers Watson, Hale, Behrens, Moody, O'Connor and Bueno and Sergeant McGee attempted to control and handcuff Miller. During this portion of the video footage, it is difficult to see Miller's body because he is surrounded by officers. However, it does appear that there is a flurry of movement by Miller to which the remaining officers react. Officer Bueno used a single "distraction strike" with his knee to Miller's left side. Officer Hatfield used his handheld radio to broadcast, "We need more units. Suspect is still fighting us." A few seconds later, Miller was successfully handcuffed and stood up. A total of 1 minute and 16 seconds passed from the time Officer Watson tackled Miller until Miller was handcuffed.

After Miller was handcuffed, Sergeant McGee recovered \$8.00 in bills from Miller's left hand. Video footage shows Officer Bueno walk Miller toward a fence and search him. Officer Bueno does not appear to recover anything from Miller's person. Officers escorted Miller back to the patrol cars. Officer Bueno then appeared to begin searching the Camry and the video footage ends.

Miller was transported to LAPD's Southeast Station. After a complaint of shortness of breath, Officer Garcia requested a rescue ambulance to respond and evaluate him. At 6:13 a.m., two Los Angeles Fire Department (LAFD) Emergency Medical Technicians responded to examine Miller. Miller was able to get out of the car and walk to the rear of the car. A technician asked, "What happened?" and "Are you hurt anywhere?" Miller replied, "I was taken down by LAPD" and "No, I'm not hurt, just thirsty. Can I get a drink of water?" LAFD technicians continued to ask Miller if he was hurt to which he responded, "No, nothing hurts." According to LAFD records, Miller did not have any visible injuries and his vital signs were stable. Miller declined LAFD's offer to take him to a hospital for further medical treatment.

Numerous photographs were taken of Stanley Miller on June 23, 2004, and June 24, 2004, to document any injuries. In the June 23 photographs, there appears to be some redness on Miller's triceps, upper left back, the bridge of his nose, and around his wrists. There are no visible bumps on Miller's face or head. The June 24 photographs show that the redness in several areas developed into bruises. The right side of Miller's right wrist has small, red abrasions where the skin has been broken. There is no bruising or redness on Miller's face, nor are any bumps visible. (Exhibit A: June 23, 2004, Exhibit B: June 24, 2004)

Video footage taken by the Los Angeles Sheriff's Department at the County Jail shows Miller easily walking to different locations within the jail and doing everyday tasks. Miller had no problem taking off his shirt and appeared to have a full range of motion in both of his arms and shoulders. The only physical complaint of pain he made was when he was being handcuffed for transport to Chino State Prison on June 28, 2004.

Miller was seen by a number of medical professionals after his arrest and initial examination by LAFD personnel. On June 23, Miller was transported to White Memorial Hospital where shoulder x-rays were taken. Nasal x-rays were taken several days later. The x-rays revealed that Miller had no broken bones. According to hospital reports, the only visible injuries observed on Miller were the abrasions to Miller's right wrist consistent with handcuffs being applied too tightly. Miller complained of pain to his right wrist and left shoulder but did not complain of any head injuries.

During the evening of June 23, a County Jail physician examined Miller who complained that his left shoulder was sore with limited mobility and that his nose and right wrist hurt. Again, Miller did not complain of any head injury or pain to his head other than the injury to his nose. The treating physician examined Miller's nose and found it to be tender and swollen but with no bleeding inside the nose. He determined that Miller's

injuries were not serious requiring over-the-counter pain medication such as Tylenol or Motrin only.

Due to complaints of dizziness while at Chino State Prison, Miller was transported to Riverside County Regional Medical Center (RCRMC) on June 30, 2004. There, doctors performed a computed axial tomography (CAT) scan. The results were normal. On July 8, 2004, and July 22, 2004, Miller returned to RCRMC for auditory/brainstem evoked potentials test and an electroencephalogram. All tests were normal. The doctors at RCRMC advised Miller to take Tylenol or Motrin as needed.

Stanley Miller's Statement

Miller told investigators that once he stopped running, he complied with officer orders to lay down when he was tackled. He recalled being kneed in his back and in his face. He was choked. Miller felt multiple body blows on both sides of his body between his shoulder and waist. He believed he was hit once in the head with a flashlight because he saw the flashlight on the ground next to him after the incident. Miller was unable to tell the interviewing officers where on his head he was hit with the flashlight because he was "stunned" by the blow.

Miller admitted he did not comply with the officers' order to put his hands behind his back as he was unable to do so because of his body position. He heard the officers telling him to stop resisting but maintained that it was impossible for him to resist under the circumstances. Miller stated he heard an officer say, "There's witnesses. The neighbors, the neighbors." After this statement was made, the blows stopped.

Witness Statements

Compton Creek runs through a residential neighborhood. The backyards of single family residences abut the dirt access road where the incident occurred. (Exhibit C)
Consequently, there were a number of civilian witnesses that heard or saw a portion of the events. Many of these statements have not been included because they do not contribute significantly to this analysis.

Sharon McCall and Michael Glaze live on Claude Street across the creek from the location of the use of force. They were watching the pursuit on television and went outside when they realized it was in their neighborhood. After observing Officer Hatfield strike Miller with the flashlight, Ms. McCall stated that she yelled, "Stop hitting him. Leave him alone."

Dominique and Rafael Thigpen and Yvonne Bookman were in a residence on Oleander Avenue located on the same side of the creek. None of these three witnesses heard the officers on the ground nor did they hear Ms. McCall shouting from across the channel. Dominique Thigpen and Ms. Bookman heard Air 18 use its public address system to tell

Miller to “Stop” and “Stand still.” Ms. Bookman believed that Miller was not resisting arrest.

Melitza Ramirez, Griselda Ramirez and Robert Alatorre also were inside a residence on Oleander Avenue. Griselda Ramirez told investigators that she could not tell if Miller was resisting but thought he was. She did not hear anyone speaking because the helicopter drowned out all of the noise. Melitza Ramirez looked out of her window after watching the pursuit on television. She heard officers yell “Stop resisting.” She also heard a woman’s voice shout, “Stop hitting him.” Melitza Ramirez did not believe Miller was resisting. Mr. Alatorre heard a woman shout, “Don’t do that. Leave (him) alone.” He believed Miller began to struggle after the first officer pinned him down.

Officer Statements

After transporting Miller to the station, all of the involved officers were ordered to separate and not speak to each other. The following statements were given under administrative compulsion after each officer invoked his/her Fifth Amendment Right against self-incrimination. Therefore, they cannot be used against the officer in a criminal case.

Officer Phillip Watson

Officer Watson told investigators that once Miller stopped running he began ordering Miller into the “high risk prone position.” He instructed Miller to put up his hands and turn completely around so that he could see Miller’s waistband. Instead, Miller went to his knees and brought his hands down. Officer Watson said he thought Miller might “pull something from that un-searched area.” Officer Watson told investigators that his concern was increased by the following factors: (1) the broadcast during the vehicle pursuit that Miller was possibly arming himself; (2) Miller’s reckless driving and (3) the fact that Miller’s left arm and hand did not “pump alongside his body but was hidden” during the foot pursuit. Based on these circumstances, Officer Watson said he abandoned his initial attempt to get Miller into the high risk prone position. Instead, Officer Watson re-holstered his service weapon, ran up to Miller, grabbed his back and pushed Miller to the ground. Officer Watson believed this action would keep Miller from reaching for a weapon because Miller would put out his hands to break his fall. According to Officer Watson, this maneuver would allow him to try to get control of Miller’s left arm.

Officer Watson also told investigators that he heard another officer, believed to be Officer Hale, yell “gun.” According to Officer Watson, Miller was “combative, fighting and removing arms every time to go back under (Miller’s) body.” Officer Watson saw Officer Hatfield use his flashlight to deliver “distraction strikes” to Miller’s left shoulder. Officer Watson did not see Officer Hatfield hit Miller in the head during the incident.

Officer David Hale

Officer Hale told investigators that as he chased Miller on foot, both he and Officer Watson ordered Miller to stop and get down. Officer Hale saw Officer Watson draw his gun, then re-holster it and tackle Miller. Officer Hale said he observed a small bulge in Miller's center front waistband. Officer Hale stated that yelled, "He's going for his waistband. A gun." Officer Hale told investigators that when Miller went to the ground, his right hand was underneath his body. Officer Hale claims he reached under Miller with his left hand palm down and felt a hard object. Officer Hale told investigators that he believed the scratches he received on his left wrist were from Miller's fingernails when he tried to get Miller's hand out from his waist area. Officer Hale said he utilized one "distraction strike" to Miller's right side. This action cannot be seen on the video footage. Officer Hale saw Officer Hatfield strike Miller with the flashlight in the shoulder but did not see any head strikes.

Officer John Hatfield

The compelled statements of Officer John Hatfield were not reviewed.

Officer Peter Bueno

Officer Bueno told investigators that during the vehicle pursuit, he saw Miller reaching under the seat and toward the passenger floorboard area. During his first interview, Officer Bueno said that at the end of the foot pursuit he heard another officer say, "[h]e has a gun" after Miller was taken to the ground. In his second interview Bueno told investigators that he heard the statement about the gun but was unsure exactly when it was said.

Officer Bueno searched Miller at the termination of the foot pursuit. The only items he found on Miller's person were a condom and a shoe lace. Officer Bueno walked Miller back to the car. After placing Miller into the back of his police unit, Officer Bueno searched the stolen Camry. He recovered a pair of red-handled wire crimpers on the passenger side floorboard. According to Officer Bueno, he placed the crimpers in the center console of Officer Hatfield and O'Connor's police car without telling anyone he did so or where he found them. Officers Bueno and Behrens transported Miller back to Southeast Station. Miller's only request during transportation was to roll down the windows.

Officer Todd Behrens

Officer Behrens was partnered with Officer Bueno and also saw Miller reach under the seat toward the passenger floorboard area during the vehicle pursuit.

Officer Behrens believed he heard Officer Hale say the suspect may have a gun or something about the waistband when Officer Behrens was approaching Miller's location

to assist the other officers. He heard multiple officers shout, "Stop resisting." Officer Behrens saw Officer Hatfield strike Miller on his left shoulder and upper arm. Officer Behrens told investigators that Miller resisted by alternately kicking his legs and becoming rigid. It appeared to Officer Behrens that Miller was trying to buck off the officers. Officer Behrens held Miller's right foot to his chest to prevent Miller from standing up. He released Miller's leg after Miller was handcuffed. Miller did not complain of any injuries while en route to the station.

Officer Andrew Moody

Officer Moody was far enough back in the foot pursuit that he did not see how Miller went to the ground. By the time he arrived at Miller's location, Officer Hatfield had finished striking Miller with the flashlight. Officer Moody put his right knee and bodyweight on Miller's back. Miller continued to actively resist and at one point rose up in the air bucking Officer Moody off of him. Officer Moody then used both of his hands to press down on Miller's shoulders.

As he walked back to the cars Officer Moody heard an officer he believed to be Officer Hale say, "Did everyone hear me say I thought he had a gun?" Officer Moody said that a couple other officers responded affirmatively saying they were concerned about officer safety during the incident.

Officer Michael O'Connor

Officer O'Connor wrote the police report documenting the incident. He told investigators that he had no personal knowledge regarding where the wire crimpers were found and by whom. His report incorrectly states that they were found by Officer Hale in Miller's front, right pants pocket. Officer O'Connor told investigators that Officer Hatfield provided him with this information.¹

Sergeant Angela McGee

Sergeant McGee told investigators that at the end of the foot pursuit she saw that officers had Miller's right hand under control but were struggling over his left hand which was under his body. Once Miller's left hand was pulled out she unfolded his fingers and removed \$8.00 from his grasp.

Sergeant McGee recalled hearing an officer mentioning a gun. Sergeant McGee said she saw Officer Bueno hold up the wire crimpers when they were back at the location of the police cars and say something to the effect of "[h]ere's your gun."

¹ This statement cannot be explained since Officer Hatfield's compelled statement was not reviewed by members of this Office.

Police Report

Regarding the location of the crimpers, the report erroneously states, “Ofcr. Hale recovered a pair of red-handled wire strippers from Deft’s right front pants pocket during search incident to arrest at pursuit termination.”² Officer O’Connor’s inability to speak to any of the involved officers regarding the case, due to the separation order, severely impaired his ability to write an accurate report regarding portions of the arrest that he did not personally witness.

It is commendable that LAPD separated officers involved in a use of force incident pursuant to the terms of the Consent Decree; however, that separation may have led to an inaccurate report being written about a highly relevant piece of information. A suggested future practice would be to separate officers and then require each officer to write a report documenting his or her own actions and observations of the incident in question. This procedure would eliminate any possible errors such as the one which occurred in this instance.

LAPD Training/Policy and Use of Force

LAPD officers are trained to put felony suspects into the “high risk prone position” which involves ordering a suspect, at gunpoint, to put his hands into the air and turn completely around so officers can visually inspect the suspect for weapons. Once the suspect has been visually inspected, the suspect is ordered to the ground. After the suspect is safely on the ground with his arms and hands visible, an assisting officer should handcuff the suspect while the original officer continues to hold the suspect at gunpoint. Officers are trained to continue to verbalize with a suspect who is not following commands.

The use of a flashlight as an “impact device” should be a last resort and is strongly discouraged by the Department.³ A flashlight can be used in place of a baton when the baton is unavailable or unable to be utilized. Officers are instructed to strike in the bony areas of the body including the arms, hands and wrists.⁴ The secondary striking or target areas include the chest and midsection.⁵

LAPD defines a “distraction strike” as a blow with the open hand, knee, elbow, shin or foot used to evade an attack or cause an aggressive or combative individual to divert his attention from one part of his body to another.

² This inaccuracy was discovered when Officer Bueno contacted the LAPD after hearing news reports that the crimpers were recovered from Miller’s person.

³ *Los Angeles Police Department Training Division, LD# 20 Use of Force Lecture No. 2.*

⁴ *Los Angeles Police Department Training Division, LD# 20 Use of Force Lecture No. 2.*

⁵ *Los Angeles Police Department Training Bulletin, Volume XXXV, Issue 6, May 2003.*

Stanley Miller's Criminal History

Stanley Miller has a history of criminal convictions dating back to 1989 when he was convicted of carrying a loaded firearm in a public place and vehicle tampering. He has since been convicted of driving on a suspended license, battery, possession of marijuana, carrying a loaded firearm, carrying a concealed firearm, forgery, grand theft auto, possession of narcotics, driving or taking of a vehicle and burglary, vehicle tampering, attempted escape, attempted burglary and possession of burglary tools.

On December 8, 2004, Miller pled guilty to the unlawful driving or taking of a vehicle and driving in willful or wanton disregard for safety of persons or property while fleeing from pursuing police officers. Both of these felonies stemmed from this incident. Miller was sentenced to three years in state prison.

Stanley Miller's Civil Lawsuit

On July 16, 2004, through counsel, Miller filed a \$25,000,000 Governmental Claim for Damages against the City of Los Angeles and the Los Angeles Police Department. That claim is pending.

STATUTORY LAW

“Every **public officer** who, **under color of authority, without lawful necessity, assaults or beats any person ...**” is guilty of the crime of assault under the color of authority. *Penal Code* § 149 (emphasis added).

In any criminal case, the prosecution must prove each element of a charged offense beyond a reasonable doubt. *Penal Code* §1096. Thus, each the above-described four elements would have to be established beyond a reasonable doubt to secure a conviction against Officer Hatfield.

The amount of force an officer is entitled to use during an arrest is defined *Penal Code Section 835a*:

Any peace officer who has reasonable cause to believe that the person to be arrested has committed a public offense may use reasonable force to effect the arrest, to prevent escape or to overcome resistance. A peace officer who makes or attempts to make an arrest need not retreat or desist from his efforts by reason of the resistance or threatened resistance of the person being arrested; nor shall such officer be deemed an aggressor or lose his right to self-defense by the use of reasonable force to effect the arrest or to prevent escape or to overcome resistance.

CASE LAW

In *Graham v. Connor*, (1989) 490 U.S. 386, the United States Supreme Court determined that claims of excessive force by police officers in the course of an arrest, investigatory stop or other seizure of the person are determined under the Fourth Amendment's "objective reasonableness" standard. *Graham* clarified that "Unlike private citizens, police officers act under the color of law to protect the public interest. They are charged with acting affirmatively and using force as part of their duties, because 'the right to make an arrest or investigatory stop necessarily carries with it the right to use some degree of physical coercion or threat thereof to effect it.'" *Graham* at 396. Determining whether the amount of force used by a police officer was reasonable or excessive and thus without lawful necessity "requires careful balancing of the intrusion on the individual's Fourth Amendment interests ..." against the countervailing governmental (police) interests at stake." *Id.* at 396.

Pursuant to *Graham*, the reasonableness of the force used "requires careful attention to the facts and circumstances" of this particular incident "including the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officers or others, and whether he is actively resisting arrest or attempting to evade arrest by flight." *Id.* at 396. *Graham* further provides that, "[t]he 'reasonableness' of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight. ... The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments – in circumstances that are tense, uncertain, and rapidly evolving – about the amount of force that is necessary in a particular situation." *Id.* at 397. "... Thus, under *Graham*, we must avoid substituting our personal notions of proper police procedure for the instantaneous decision of the officer at the scene. We must never allow the theoretical, sanitized world of our imagination to replace the dangerous and complex world that policeman face every day. What constitutes 'reasonable' action may seem quite different to someone facing a possible assailant than to someone analyzing the question at leisure." *Smith v. Freland* (6th Cir. 1992) 954 F.2d 343, 347.

A police officer is not analyzed from the standpoint of exercising self-defense against an aggressor, rather the "police officer is in the exercise of the privilege of protecting the public peace and order [and] he is entitled to the even greater use of force than might be in the same circumstances required for self defense." *Wirsing v. Krzeminski* (Wis. 1973) 61 Wis.2d 513.

Further, *Graham*'s definition of reasonableness has been described by courts utilizing its analysis as, "comparatively generous to the police in cases where potential danger, emergency conditions or other exigent circumstances are present" (*Roy v. Inhabitants of City of Lewiston* (1st Cir. 1994) 42 F.3d 691) and also as giving police "... a fairly wide zone of protection in close cases. ..." *Martinez v. County of Los Angeles* (1996) 47 Cal.App.4th 334.

DISTRICT ATTORNEY'S POLICY

The filing guidelines of the Los Angeles County District Attorney's Office are contained within our Legal Policies Manual. This manual states:

A charge should be brought only after consideration of the probability of conviction by an objective fact finder hearing the admissible evidence and the admissible evidence is of such convincing force that it would warrant a conviction of the crime charged by a reasonable and objective fact finder after hearing all the evidence available to the prosecutor at the time of charging and after considering the most plausible, reasonably foreseeable defense inherent in the prosecution evidence.

ANALYSIS

On June 23, 2004, Officer John Hatfield was clearly a public officer acting under color of authority and he struck Stanley Miller. The only remaining element of the potential crime to consider is whether there is legally sufficient evidence to prove beyond a reasonable doubt that Officer Hatfield acted **without lawful necessity**.

According to all of the officers at the scene Miller was combative and two civilian witnesses also believed Miller was struggling with the officers. Miller had led officers on a high speed life threatening pursuit in a recently stolen car and failed to comply with orders to stop and show his hands. Miller's furtive movements during the chase led officers to believe he might be arming himself. Miller's behavior up to this point suggests he would not comply with the officers. That Officer Hale yelled "gun" is corroborated by other officers and could have had the effect of escalating the situation.⁶ In light of the totality of the circumstances facing Officer Hatfield we cannot establish beyond a reasonable doubt that Officer Hatfield's actions were without legal necessity.

Officer Hatfield's Streamlight flashlight is made of aluminum and weighs approximately 1 pound, 11 ounces. It is 13 inches long and 1½ inches in diameter. Its ability to inflict serious injury is apparent. It is highly unlikely that all of Officer's Hatfield's flashlight strikes made substantial contact as one would expect more serious injury to Miller. Miller suffered minor bruising and stiffness requiring only over-the-counter pain medication for treatment. There is an absence of credible evidence to support Miller's contention that he was hit in the head with the flashlight. He suffered no bruising or bumps to his head or face other than the slight redness to his nose which disappeared within 24-hours of his arrest. Miller's later complaints of head injuries and brain damage

⁶ That no civilian witnesses heard Officer Hale say "gun" can be explained by the fact that Air 18 was overhead using its public address system to issue commands and would certainly have drowned out all conversation on the ground to these nearby civilian witnesses.

are not supported by medical evaluation or record.⁷ The lack of serious injury to Miller refutes the argument that the force exerted upon him was without legal necessity.

Finally, pursuant to the District Attorney's Office filing policies we consider any plausible, reasonably foreseeable defenses that Officer Hatfield might offer if a criminal charge were to be filed against him. At the termination of the foot pursuit, Officer Watson tackled Miller arguably abandoning proper LAPD procedure for taking a high risk felony suspect into custody. This action set into play a series of events leading to the use of force. Officer's Watson's tackling of Miller not only increased the danger to all the officers involved in the incident but created an ambiguous set of circumstances for Officer Hatfield who was left to speculate as to the exigency that caused Officer Watson to act in this manner. As reported, Miller was not under control and another officer yelled "gun." Officer Hatfield's plausible defense would be that he acted within a matter of seconds to gain control of a resisting and possibly dangerous suspect based upon his perceptions of the unfolding events and that his actions were not criminal.

CONCLUSION

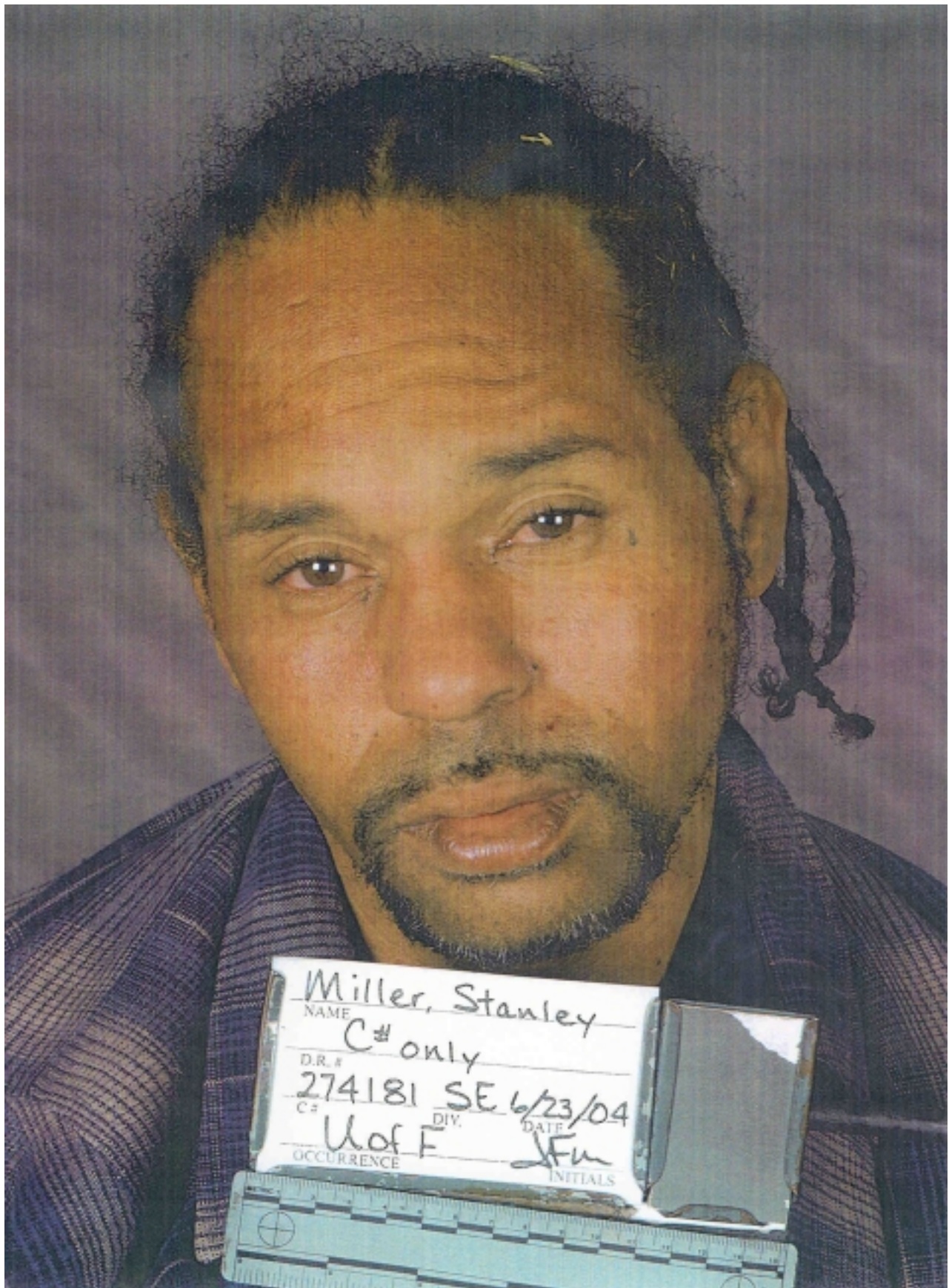
In a criminal investigation, decisions made by officers in the field cannot be scrutinized with 20/20 hindsight from the peace of our own lives. Out on the street officers are forced to make split second decisions in tense, dangerous and quickly unfolding situations. The United States Supreme Court has recognized and reiterated this fact and pursuant to their decision in *Graham v. Connor* this Office objectively analyzed Officer Hatfield's actions from the standpoint of a reasonable officer facing the same facts and circumstances that confronted Officer Hatfield during the vehicle and foot pursuits of Stanley Miller.

In light of Miller's actions during the vehicle pursuit, his conduct at the conclusion of the foot pursuit, the possibility that Miller was armed and the fact that his hands were unsecured, the tackle by Officer Watson and ultimately, the amount of force used leads this office to conclude that we cannot prove *beyond a reasonable doubt* that Officer Hatfield's use of force was without legal necessity.

While issues remain regarding certain officers' actions, some of the involved officers' inconsistent statements, and the inaccuracies in the report, we cannot proceed with a prosecution due to the inability to prove beyond a reasonable doubt the criminal charge referred to us. Of course, our finding in no way precludes the Los Angeles Police Department from conducting an administrative review of this matter. We therefore decline to initiate criminal proceedings and refer the matter of the Los Angeles Police Department for appropriate review and action.

⁷ The \$25 million lawsuit against the City of Los Angeles and the Los Angeles Police Department as well as Miller's extensive criminal history cast doubt on Miller's credibility rendering his version of events and claimed injuries to be suspect at best.

EXHIBIT A



Miller, Stanley

NAME

C# only

D.R. #

274181 SE 6/23/04

C#

DIV.

DATE

Uof F

JFm

OCCURRENCE

INITIALS



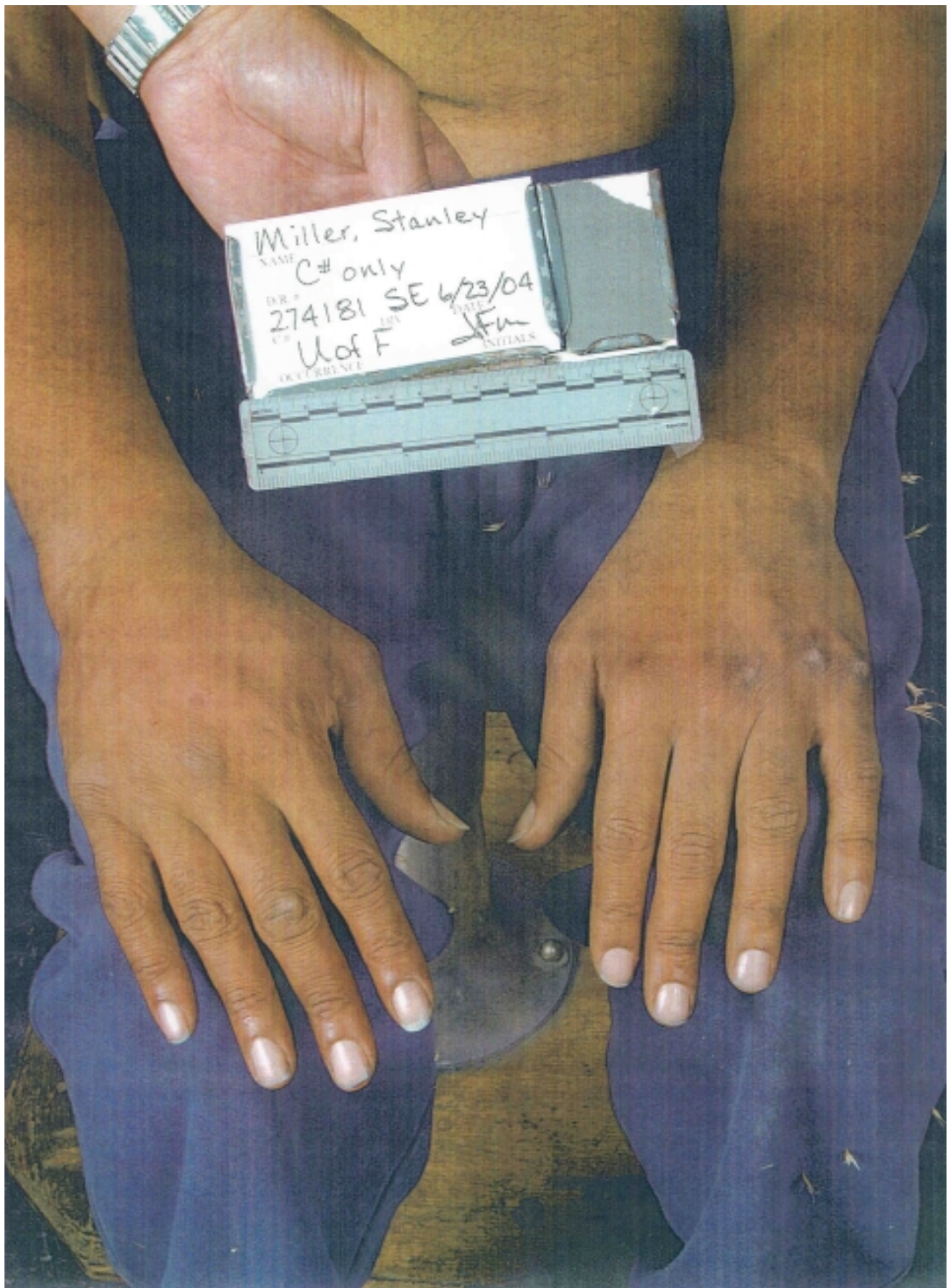




EXHIBIT B









EXHIBIT C

